

REMARKS

Claims 1-32 are pending, claims 1, 21, 22, 23, 25, and 28 being in independent form and claims 31-32 having been added. Claim 15 has been amended to indicate that the wine cradle includes the pair of spaced apart, substantially parallel rods.

Responsive to the election of species requirement in the Office action mailed March 31, 2003, Applicant respectfully traverses the present election of species requirement and provisionally elects the species of FIG. 1 should the election of species requirement be made final. Further, Applicant submits that claims 1-9, 13-16, 20-23, 25-26, and 28-32 are readable upon the species of FIG. 1.

Applicant traverses the present election of species requirement on grounds that independent claims 1, 21, 22, 23, 25, 28 are each generic to several of the species of FIGS. 1, 3, 5, 6, and 7-10. For example, claim 25 relates to a means for storing a bottle at least partially recessed in a wall and having a long axis substantially parallel to the plane of the wall. Applicant respectfully submits that this claim links every species of FIGS. 1, 3, 5, 6, and 7-10.

Please also note that FIG. 5 shows a bottle cradle, and not a rack. See, e.g., page 2, line 4 of the specification. Bottle cradles can be included in the species of FIGS. 1, 3, 6, and 7-10. See, e.g., page 2, line 14-15 and page 3, line 20 of the specification, as well as FIGS. 6 and 7.

Also in the March 31 Office action, FIG. 3 was objected to under 37 C.F.R. §1.83(a) as not showing "the space 105 between bars 220." Please note that reference numeral 105 indicates "forwardly open interior chamber 105." See, e.g., page 2, line 16-17 of the specification. Reference numeral 220 indicates "bottle cradles 220." See, e.g., page 3, line 20-23 of the specification. Further, Applicant respectfully directs attention to the top center of FIG. 3, where reference numeral 105 plainly appears. Since reference numeral 105 both appears in FIG. 3 and properly indicates a forwardly open interior chamber, Applicant respectfully submits that FIG. 3 complies with 37 C.F.R. §1.83(a) and requests that the objection be withdrawn.

Claim 20 was rejected under 35 U.S.C. §112, 2nd para. as indefinite. Claim 20 has been amended to avoid any potential confusion between the terms "house" and "housing."

Claims 1-7, 9-13, 16, and 20-27 were rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,707,125 to Coglin, hereinafter Coglin.

Applicant respectfully traverses these rejections.

Coglin describes generic wall-mounted cabinets for the living room, dining room, kitchen, bedroom, hall, and/or garage that are suitable for shelving general household items such as books, ornaments, trophies, rifles, linens, tools, or supplies. See, e.g., col. 2, line 26-31 of Coglin.

Applicant respectfully submits that Coglin's generic wall-mounted cabinets fail to describe or suggest features found in each of independent claims 1, 21, 22, 23, and 25.

Claim 1 relates to a storage space that includes a wine rack having a wine cradle. The wine rack is configured to be at least partially recessed in a wall. The wine cradle is configured to store a wine bottle with a stopper in contact with a stored wine. The Action characterizes the cabinets of Coglin as wine racks, and the cabinet shelves as wine cradles. Applicant disagrees with these characterizations.

Coglin lacks any mention whatsoever of wine racks, but rather deals with generic cabinets for shelving general household items. Although wine bottles may be shelvable in Coglin's generic cabinets, the mere fact that a cabinet shelves a wine bottle does not transform the cabinet into a wine rack. Further, the cabinet shelves of Coglin are flat to provide for shelving of general household items such as books, ornaments, trophies, rifles, linens, tools, or supplies. Although flat shelves can support upright and, in conjunction with lateral supports, even reclining wine bottles, flat shelves do not provide the cradling of wine cradles. For anticipation, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d. 1226, 1236 (Fed. Cir. 1989). Since detail regarding both wine racks and wine cradles is not shown by Coglin, Applicant respectfully submits that claim 1, and the claims dependent therefrom, are not anticipated by Coglin.

Claim 21 relates to a storage space that includes a bottle rack. The bottle rack is configured to store a bottle having a long axis substantially parallel to the plane of the wall. The bottle rack is configured to be at least partially recessed in a wall.

Coglin fails to describe or suggest a bottle rack, much less one that is configured to store a bottle having a long axis substantially parallel to the plane of the wall. Coglin deals with generic cabinets for the shelving of general household items and makes no mention whatsoever of bottle racks. Although bottles may be shelvable in Coglin's generic cabinets, the mere fact that a cabinet shelves a bottle does not transform the cabinet into a bottle rack. Further, Coglin's

cabinets are not configured to store a bottle having a long axis substantially parallel to the plane of the wall. Rather, Coglin's cabinets are configured for shelving general household items. Since detail regarding a bottle rack configured to store a bottle having a long axis substantially parallel to the plane of the wall is not shown by Coglin, Applicant respectfully submits that claim 21 is not anticipated by Coglin.

Claim 22 relates to a storage space that includes a bottle rack configured to be at least partially recessed in a wall. The bottle rack is of unitary construction.

Coglin also fails to describe or suggest a bottle rack of unitary construction. As discussed above, although bottles may be shelvable in Coglin's generic cabinets, the mere fact that a cabinet shelves a bottle does not transform the cabinet into a bottle rack. Further, any additional elements added to Coglin's generic cabinets to transform the cabinets into bottle racks would not yield bottle racks of unitary construction since such a unitary construction would frustrate Coglin's purpose of providing shelving for general household items. Since detail regarding bottle racks of unitary construction is not shown by Coglin, Applicant respectfully submits that claim 22 is not anticipated by Coglin.

Claim 23 relates to a wine rack that includes a housing and a wine cradle. The housing is adapted for mounting at least partially into a building wall. The wine cradle is positioned generally within the housing and configured to store a wine bottle having a cork in contact with wine.

Coglin lacks any mention whatsoever of a wine cradle positioned generally within a housing and configured to store a wine bottle having a cork in contact with wine. The flat cabinet shelves of Coglin can shelve upright and, in conjunction with lateral supports, even reclining wine bottles, but flat cabinet shelves do not provide the cradling of wine cradles. Rather flat cabinet shelves provide for shelving of general household items such as books, ornaments, trophies, rifles, linens, tools, or supplies. Since detail regarding a wine cradle is not shown by Coglin, Applicant respectfully submits that claims 23 and 24 are not anticipated by Coglin.

Claim 25 relates to a storage space that includes a means for racking a bottle at least partially recessed in a wall with a long axis substantially parallel to the plane of the wall.

Coglin also fails to describe or suggest a means for racking a bottle with a long axis substantially parallel to the plane of the wall. As discussed above, Coglin deals with generic cabinets for the shelving of general household items, rather than the racking of bottles. Since detail regarding a means for racking a bottle with a long axis substantially parallel to the plane of the wall is not shown by Coglin, Applicant respectfully submits that claim 25 is not anticipated by Coglin.

Accordingly, Applicant submits that claims 1-27 are allowable.

Claims 8, 14, 15, 17-19, and 28-30 were rejected under 35 U.S.C. §103(a) as obvious over Coglin and U.S. Patent No. 6,361,129 to Boergen, hereinafter Boergen.

Applicant respectfully traverses these rejections.

Boergen deals with a dual purpose cooler and display device. The device includes cantilevered rods for holding bottles in a cork down position and cantilevered shelves for holding bottles in a cork up position. The rods are cantilevered from the rear wall of the device toward a front door. The shelves are cantilevered from the rear wall of the device beyond the end of the rods toward the front door. See, e.g., col. 2, line 5-19 of Boergen.

Neither Coglin nor Boergen describes or suggests storing a bottle in a bottle rack at least partially recessed in a wall with a long axis substantially parallel to the plane of the wall, as recited in claim 28. Coglin neither describes nor suggests storing bottles. Boergen's bottles are either stored on cantilevered rods that are perpendicular to the plane of the front of Boergen's device or stored on cantilevered shelves that extend beyond the cantilevered rods and hence are not at least partially recessable in any wall thinner than the cantilevered rods. Since neither Coglin nor Boergen describes or suggests storing a bottle as recited in claim 28, Applicant respectfully submits that a *prima facie* case of obviousness has not been established and that claim 28, and the claims dependent therefrom, are patentable over Coglin and Boergen.

Accordingly, Applicant submits that claims 28-30 are also allowable.

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In view of the above remarks, therefore, all of the claims should be in condition for allowance. A formal notice to that effect is respectfully solicited. Check #1138 in the amount of \$18.00 is enclosed herewith for the excess claims fee under 37 C.F.R. §1.16(c).

Respectfully submitted,

Date: _____

6/12/03



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claims 15, 20, and 25 have been amended as follows:

15. (Amended) The storage space of claim 14 [further comprising] wherein the wine cradle comprises a pair of spaced apart, substantially parallel rods, wherein the depression is defined between the pair of rods.

20. (Amended) A [house] building comprising the wine rack of claim 1.

25. (Twice Amended) A storage space comprising a means for [storing] racking a bottle at least partially recessed in a wall and having a long axis substantially parallel to the plane of the wall.

New claims 31 and 32 have been added.

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